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TO SECSTATE WASHDC 5453

UNCLAS GUATEMALA 000689

SENSITIVE
SIPDIS

DEPT FOR WHA/CEN AND EEB/CIP/BA TIM FINTON, PLEASE PASS TO
USTR CATHERINE HINCKLEY

E.O. 12958: N/A

TAGS: [ECON](#) [ECPS](#) [EINV](#) [GT](#)

SUBJECT: GUATEMALA TELCOM DISPUTE - GOG INTERESTED IN
AVOIDING ANOTHER CAFTA CASE

REF: GUATEMALA 00081

¶1. (U) On March 6, U.S.-owned telecommunications company Americatel submitted a letter to the Guatemalan Ministry of Economy requesting consultations with the GOG under Article 10 of CAFTA-DR, the first step in filing a dispute for arbitration under CAFTA-DR. Americatel requested that the GOG take action to help resolve its interconnection and commercial disputes with the major telecom supplier in Guatemala - Telgua (a subsidiary of American Movil, owned by Mexican national Carlos Slim). Americatel's complaint centers on Telgua's unilateral decision to disconnect 20 percent of Americatel's capacity, i.e. four out of 20 high-capacity E1 voice/data lines, in October 2006 due to a billing dispute between the two companies. Additionally, Americatel claimed that Guatemala's telecommunication regulator, the Superintendencia de Telecomunicaciones (SIT), failed to mandate reconnection of the circuits and therefore is not ensuring that the dominant carrier Telgua provide reasonable and non-discriminatory access to public telecommunication services as required under CAFTA-DR and WTO commitments.

¶2. (SBU) During a May 28 meeting with Econoff, Vice Minister of Economy for Trade and Regional Integration Ruben Morales indicated that the Colom Administration is committed to enforcing its obligations under CAFTA-DR to ensure interconnection and non-discriminatory access to telecommunication services. Morales also stated that GOG officials responsible for CAFTA-DR and telecommunications were very interested in avoiding the case being submitted for international arbitration. VM Morales suggested that the GOG attorneys and USG attorneys work together to discuss the issues in an effort to reach consensus on GOG obligations required under CAFTA with regard to the Americatel dispute. Once consensus is reached, the GOG would take the required action. Morales planned to develop wider GOG support for this plan and report back to post.

¶3. (SBU) Americatel believes that it is in their interest to file a written notice of their intent to submit the claim to international arbitration with the GOG that will clearly lay out their case and the damages the company has suffered due to the lack of government action. Once the notice of intent is filed, a 90 day waiting period will begin, after which Americatel will be able to file a request for arbitration with the International Centre for Settlement of Investment Disputes (ICSID) located in Washington, DC. Americatel plans to file its notice of intent with the GOG on June 9, and hopes that once filed, the notice will spur the GOG to address its concerns and eliminate the need for international arbitration.

¶4. (SBU) Comment: Vice Minister Morales and the new SIT Superintendent both appear interested in finding a solution to the problem that would persuade Americatel not to file a

complaint with the ICSID. They admit this may require direct intervention by the Minister of Communications or President Colom to force Telgua to restore the four cut E1 lines. While the current administration has only been in office four months, they have expressed a desire to resolve this investment dispute through direct GOG-USG negotiations to avoid it being submitted for international arbitration under CAFTA-DR.

Derham